

1 AN ACT in relation to vehicles.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Boat Registration and Safety Act is
5 amended by changing Sections 5-16 and 5-16a and adding
6 Section 5-16a.1 as follows:

7 (625 ILCS 45/5-16)

8 Sec. 5-16. Operating a watercraft under the influence of
9 alcohol, other drug or drugs, intoxicating compound or
10 compounds, or combination thereof.

11 (A) 1. A person shall not operate or be in actual
12 physical control of any watercraft within this State
13 while:

14 (a) The alcohol concentration in such person's
15 blood or breath is a concentration at which driving
16 a motor vehicle is prohibited under subdivision (1)
17 of subsection (a) of Section 11-501 of the Illinois
18 Vehicle Code;

19 (b) Under the influence of alcohol;

20 (c) Under the influence of any other drug or
21 combination of drugs to a degree which renders such
22 person incapable of safely operating any watercraft;

23 (c-1) Under the influence of any intoxicating
24 compound or combination of intoxicating compounds to
25 a degree that renders the person incapable of safely
26 operating any watercraft;

27 (d) Under the combined influence of alcohol
28 and any other drug or drugs to a degree which
29 renders such person incapable of safely operating a
30 watercraft; or

31 (e) There is any amount of a drug, substance,

1 or compound in the person's blood or urine resulting
 2 from the unlawful use or consumption of cannabis
 3 listed as-defined in the Cannabis Control Act, or a
 4 controlled substance listed in the Illinois
 5 Controlled Substances Act, or an intoxicating
 6 compound listed in the Use of Intoxicating Compounds
 7 Act.

8 2. The fact that any person charged with violating
 9 this Section is or has been legally entitled to use
 10 alcohol, or other drug or drugs, any intoxicating
 11 compound or compounds, or any combination of them both,
 12 shall not constitute a defense against any charge of
 13 violating this Section.

14 3. Every person convicted of violating this Section
 15 shall be guilty of a Class A misdemeanor, except as
 16 otherwise provided in this Section.

17 4. Every person convicted of violating this Section
 18 shall be guilty of a Class 4 felony if:

19 (a) He has a previous conviction under this
 20 Section; or

21 (b) The offense results in personal injury
 22 where a person other than the operator suffers great
 23 bodily harm or permanent disability or
 24 disfigurement, when the violation was a proximate
 25 cause of the injuries. A person guilty of a Class 4
 26 felony under this subparagraph (b), if sentenced to
 27 a term of imprisonment, shall be sentenced to a term
 28 of not less than one year nor more than 12 years; or

29 (c) The offense occurred during a period in
 30 which his or her privileges to operate a watercraft
 31 are revoked or suspended, and the revocation or
 32 suspension was for a violation of this Section or
 33 was imposed under subsection (B).

34 5. Every person convicted of violating this Section

1 shall be guilty of a Class 2 felony if the offense
2 results in the death of a person. A person guilty of a
3 Class 2 felony under this paragraph 5, if sentenced to a
4 term of imprisonment, shall be sentenced to a term of not
5 less than 3 years and not more than 14 years.

6 5.1 A person convicted of violating this Section
7 or a similar provision of a local ordinance who had a
8 child under the age of 16 aboard the watercraft at the
9 time of offense is subject to a mandatory minimum fine of
10 \$500 and to a mandatory minimum of 5 days of community
11 service in a program benefiting children. The assignment
12 under this paragraph 5.1 is not subject to suspension and
13 the person is not eligible for probation in order to
14 reduce the assignment.

15 5.2. A person found guilty of violating this
16 Section, if his or her operation of a watercraft while in
17 violation of this Section proximately caused any incident
18 resulting in an appropriate emergency response, is liable
19 for the expense of an emergency response as provided
20 under Section 5-5-3 of the Unified Code of Corrections.

21 5.3. In addition to any other penalties and
22 liabilities, a person who is found guilty of violating
23 this Section, including any person placed on court
24 supervision, shall be fined \$100, payable to the circuit
25 clerk, who shall distribute the money to the law
26 enforcement agency that made the arrest. In the event
27 that more than one agency is responsible for the arrest,
28 the \$100 shall be shared equally. Any moneys received by
29 a law enforcement agency under this paragraph 5.3 shall
30 be used to purchase law enforcement equipment or to
31 provide law enforcement training that will assist in the
32 prevention of alcohol related criminal violence
33 throughout the State. Law enforcement equipment shall
34 include, but is not limited to, in-car video cameras,

1 radar and laser speed detection devices, and alcohol
2 breath testers.

3 6. (a) In addition to any criminal penalties
4 imposed, the Department of Natural Resources shall
5 suspend the watercraft operation privileges of any
6 person convicted or found guilty of a misdemeanor
7 under this Section for a period of one year, except
8 that a first time offender is exempt from this
9 mandatory one year suspension.

10 (b) In addition to any criminal penalties
11 imposed, the Department of Natural Resources shall
12 suspend the watercraft operation privileges of any
13 person convicted of a felony under this Section for
14 a period of 3 years.

15 (B) 1. Any person who operates or is in actual physical
16 control of any watercraft upon the waters of this State
17 shall be deemed to have given consent to a chemical test
18 or tests of blood, breath or urine for the purpose of
19 determining the content of alcohol, other drug or drugs,
20 intoxicating compound or compounds, or combination
21 thereof in the content of such person's blood if arrested
22 for any offense of subsection (A) above. The chemical
23 test or tests shall be administered at the direction of
24 the arresting officer. The law enforcement agency
25 employing the officer shall designate which of the tests
26 shall be administered. A urine test may be administered
27 even after a blood or breath test or both has been
28 administered.

29 (1.1.) For the purposes of this Section, an
30 Illinois Law Enforcement officer of this State who is
31 investigating the person for any offense defined in
32 Section 5-16 may travel into an adjoining state, where
33 the person has been transported for medical care to
34 complete an investigation, and may request that the

1 person submit to the test or tests set forth in this
2 Section. The requirements of this Section that the
3 person be arrested are inapplicable, but the officer
4 shall issue the person a uniform citation for an offense
5 as defined in Section 5-16 or a similar provision of a
6 local ordinance prior to requesting that the person
7 submit to the test or tests. The issuance of the uniform
8 citation shall not constitute an arrest, but shall be for
9 the purpose of notifying the person that he or she is
10 subject to the provisions of this Section and of the
11 officer's belief in the existence of probable cause to
12 arrest. Upon returning to this State, the officer shall
13 file the uniform citation with the circuit clerk of the
14 county where the offense was committed and shall seek the
15 issuance of an arrest warrant or a summons for the
16 person.

17 (1.2.) Notwithstanding any ability to refuse under
18 this Act to submit to these tests or any ability to
19 revoke the implied consent to these tests, if a law
20 enforcement officer has probable cause to believe that a
21 watercraft operated by or under actual physical control
22 of a person under the influence of alcohol, other drug or
23 drugs, intoxicating compound or compounds, or any
24 combination of them has caused the death of or personal
25 injury to another, that person shall submit, upon the
26 request of a law enforcement officer, to a chemical test
27 or tests of his or her blood, breath, or urine for the
28 purpose of determining the alcohol content or the
29 presence of any other drug, intoxicating compound, or
30 combination of them. For the purposes of this Section, a
31 personal injury includes severe bleeding wounds,
32 distorted extremities, and injuries that require the
33 injured party to be carried from the scene for immediate
34 professional attention in either a doctor's office or a

1 medical facility.

2 2. Any person who is dead, unconscious or who is
3 otherwise in a condition rendering such person incapable
4 of refusal, shall be deemed not to have withdrawn the
5 consent provided above, and the test may be administered.

6 3. A person requested to submit to a chemical test
7 as provided above shall be verbally advised by the law
8 enforcement officer requesting the test that a refusal to
9 submit to the test will result in suspension of such
10 person's privilege to operate a watercraft for a minimum
11 of 2 years. Following this warning, if a person under
12 arrest refuses upon the request of a law enforcement
13 officer to submit to a test designated by the officer, no
14 test none shall be given, but the law enforcement officer
15 shall file with the clerk of the circuit court for the
16 county in which the arrest was made, and with the
17 Department of Natural Resources, a sworn statement naming
18 the person refusing to take and complete the chemical
19 test or tests requested under the provisions of this
20 Section. Such sworn statement shall identify the
21 arrested person, such person's current residence address
22 and shall specify that a refusal by such person to take
23 the chemical test or tests was made. Such sworn
24 statement shall include a statement that the arresting
25 officer had reasonable cause to believe the person was
26 operating or was in actual physical control of the
27 watercraft within this State while under the influence of
28 alcohol, other drug or drugs, intoxicating compound or
29 compounds, or combination thereof and that such chemical
30 test or tests were made as an incident to and following
31 the lawful arrest for an offense as defined in this
32 Section or a similar provision of a local ordinance, and
33 that the person after being arrested for an offense
34 arising out of acts alleged to have been committed while

1 so operating a watercraft refused to submit to and
2 complete a chemical test or tests as requested by the law
3 enforcement officer.

4 3.1 The law enforcement officer submitting the
5 sworn statement as provided in paragraph 3 of this
6 subsection (B) shall serve immediate written notice upon
7 the person refusing the chemical test or tests that the
8 person's privilege to operate a watercraft within this
9 State will be suspended for a period of 2 years unless,
10 within 28 days from the date of the notice, the person
11 requests in writing a hearing on the suspension.

12 The--clerk--shall--thereupon--notify--such--person--in
13 writing--that--the--person's--privilege--to--operate--a
14 watercraft--will--be--suspended--unless,--within--28--days--from
15 the--date--of--mailing--of--the--notice,--such--person--shall
16 request--in--writing--a--hearing--thereon; If the person
17 desires a hearing, such person shall file a complaint in
18 the circuit court for and in the county in which such
19 person was arrested for such hearing. Such hearing shall
20 proceed in the court in the same manner as other civil
21 proceedings, shall cover only the issues of whether the
22 person was placed under arrest for an offense as defined
23 in this Section or a similar provision of a local
24 ordinance as evidenced by the issuance of a uniform
25 citation; whether the arresting officer had reasonable
26 grounds to believe that such person was operating a
27 watercraft while under the influence of alcohol, other
28 drug or drugs, intoxicating compound or compounds, or
29 combination thereof; and whether such person refused to
30 submit and complete the chemical test or tests upon the
31 request of the law enforcement officer. Whether the
32 person was informed that such person's privilege to
33 operate a watercraft would be suspended if such person
34 refused to submit to the chemical test or tests shall not

1 be an issue.

2 If the person fails to request in writing a hearing
3 within 28 days from the date of notice, or if a hearing
4 is held and the court finds against the person on the
5 issues before the court, the clerk shall immediately
6 notify the Department of Natural Resources ~~of the court's~~
7 ~~decision~~, and the Department shall suspend the watercraft
8 operation privileges of the person for at least 2 years.

9 3.2. If the person submits to a test that discloses
10 an alcohol concentration of 0.08 or more, or any amount
11 of a drug, substance or intoxicating compound in the
12 person's breath, blood, or urine resulting from the
13 unlawful use of cannabis listed in the Cannabis Control
14 Act, a controlled substance listed in the Illinois
15 Controlled Substances Act, or an intoxicating compound
16 listed in the Use of Intoxicating Compounds Act, the law
17 enforcement officer shall immediately submit a sworn
18 report to the circuit clerk of venue and the Department
19 of Natural Resources, certifying that the test or tests
20 were requested under paragraph 1 of this subsection (B)
21 and the person submitted to testing that disclosed an
22 alcohol concentration of 0.08 or more.

23 In cases where the blood alcohol concentration of
24 0.08 or greater or any amount of drug, substance or
25 compound resulting from the unlawful use of cannabis, a
26 controlled substance or an intoxicating compound is
27 established by a subsequent analysis of blood or urine
28 collected at the time of arrest, the arresting officer or
29 arresting agency shall immediately submit a sworn report
30 to the circuit clerk of venue and the Department of
31 Natural Resources upon receipt of the test results.

32 4. A person must submit to each chemical test
33 offered by the law enforcement officer in order to comply
34 with the implied consent provisions of this Section.

1 5. The provisions of Section 11-501.2 of the
2 Illinois Vehicle Code, as amended, concerning the
3 certification and use of chemical tests apply to the use
4 of such tests under this Section.

5 (C) Upon the trial of any civil or criminal action or
6 proceeding arising out of acts alleged to have been committed
7 by any person while operating a watercraft while under the
8 influence of alcohol, the concentration of alcohol in the
9 person's blood or breath at the time alleged as shown by
10 analysis of a person's blood, urine, breath, or other bodily
11 substance shall give rise to the presumptions specified in
12 subdivisions 1, 2, and 3 of subsection (b) of Section
13 11-501.2 of the Illinois Vehicle Code. The foregoing
14 provisions of this subsection (C) shall not be construed as
15 limiting the introduction of any other relevant evidence
16 bearing upon the question whether the person was under the
17 influence of alcohol.

18 (D) If a person under arrest refuses to submit to a
19 chemical test under the provisions of this Section, evidence
20 of refusal shall be admissible in any civil or criminal
21 action or proceeding arising out of acts alleged to have been
22 committed while the person under the influence of alcohol, ~~or~~
23 other drug or drugs, intoxicating compound or compounds, or
24 combination of them ~~both~~ was operating a watercraft.

25 (E) The owner of any watercraft or any person given
26 supervisory authority over a watercraft, may not knowingly
27 permit a watercraft to be operated by any person under the
28 influence of alcohol, other drug or drugs, intoxicating
29 compound or compounds, or combination thereof.

30 (F) Whenever any person is convicted or found guilty of
31 a violation of this Section, including any person placed on
32 court supervision, the court shall notify the Office Division
33 of Law Enforcement of the Department of Natural Resources, to
34 provide the Department with the records essential for the

1 performance of the Department's duties to monitor and enforce
2 any order of suspension or revocation concerning the
3 privilege to operate a watercraft.

4 (G) No person who has been arrested and charged for
5 violating paragraph 1 of subsection (A) of this Section shall
6 operate any watercraft within this State for a period of 24 6
7 hours after such arrest.

8 (Source: P.A. 92-615, eff. 1-1-03.)

9 (625 ILCS 45/5-16a) (from Ch. 95 1/2, par. 315-11a)

10 Sec. 5-16a. Admissibility of chemical tests of written
11 blood alcohol-test-results conducted in the regular course of
12 providing emergency medical treatment.

13 (a) Notwithstanding any other provision of law, the
14 written results of blood alcohol tests conducted upon persons
15 receiving medical treatment in a hospital emergency room are
16 admissible in evidence as a business record exception to the
17 hearsay rule only in prosecutions for any violation of
18 Section 5-16 of this Act or a similar provision of a local
19 ordinance or in prosecutions for reckless homicide brought
20 under the Criminal Code of 1961, when:

21 (1) the chemical tests performed upon an
22 individual's blood were ordered in the regular course of
23 providing emergency treatment and not at the request of
24 law enforcement authorities; and

25 (2) the chemical tests performed upon an
26 individual's blood were performed by the laboratory
27 routinely used by the hospital.

28 Results of chemical tests performed upon an individual's
29 blood are admissible into evidence regardless of the time
30 that the records were prepared. each--of--the--following
31 criteria-are-met:

32 (1)--the--blood--alcohol--tests--were--ordered--by--a
33 physician-on-duty-at-the-hospital-emergency-room-and-were

1 performed-in-the-regular-course--of--providing--emergency
2 medical--treatment--in--order--to--assist--the--physician--in
3 diagnosis-or-treatment;

4 (2)--the-blood-alcohol-tests-were-performed--by--the
5 hospital's-own-laboratory;-and

6 (3)--the--written-results-of-the-blood-alcohol-tests
7 were-received-and-considered-by-the-physician-on-duty--at
8 the--hospital--emergency-room-to-assist-that-physician-in
9 diagnosis-or-treatment.

10 (b) The confidentiality provisions of law pertaining to
11 medical records and medical treatment shall not be applicable
12 with regard to chemical blood-alcohol tests performed upon an
13 individual's blood or urine under the provisions of this
14 Section in prosecutions as specified in subsection (a) of
15 this Section. No person shall be liable for civil damages as
16 a result of the evidentiary use of the results of chemical
17 testing of an individual's blood blood-alcohol--test--results
18 under this Section or as a result of that person's testimony
19 made available under this Section.

20 (Source: P.A. 87-803; 88-670, eff. 12-2-94.)

21 (625 ILCS 45/5-16a.1 new)

22 Sec. 5-16a.1. Reporting of test results of blood or urine
23 conducted in the regular course of providing emergency
24 medical treatment.

25 (a) Notwithstanding any other provision of law, the
26 results of blood or urine tests performed for the purpose of
27 determining the content of alcohol, other drug or drugs,
28 intoxicating compound or compounds, or any combination of
29 them in an individual's blood or urine, conducted upon
30 persons receiving medical treatment in a hospital emergency
31 room for injuries resulting from a boating accident, shall be
32 disclosed to the Department of Natural Resources or local law
33 enforcement agencies of jurisdiction, upon request. The

1 blood or urine tests are admissible in evidence as a business
 2 record exception to the hearsay rule only in prosecutions for
 3 violations of Section 5-16 of this Code or a similar
 4 provision of a local ordinance, or in prosecutions for
 5 reckless homicide brought under the criminal Code of 1961.

6 (b) The confidentiality provisions of the law pertaining
 7 to medical records and medical treatment shall not be
 8 applicable with regard to tests performed upon an
 9 individual's blood or urine under the provisions of
 10 subsection (a) of this Section. No person is liable for
 11 civil damages or professional discipline as a result of
 12 disclosure or reporting of the tests or the evidentiary use
 13 of an individual's blood or urine test results under this
 14 Section or Section 5-16a, or as a result of that person's
 15 testimony made available under this Section or Section 5-16a,
 16 except for willful or wanton misconduct.

17 Section 10. The Unified Code of Corrections is amended
 18 by changing Section 5-5-3 as follows:

19 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
 20 Sec. 5-5-3. Disposition.

21 (a) Every person convicted of an offense shall be
 22 sentenced as provided in this Section.

23 (b) The following options shall be appropriate
 24 dispositions, alone or in combination, for all felonies and
 25 misdemeanors other than those identified in subsection (c) of
 26 this Section:

- 27 (1) A period of probation.
- 28 (2) A term of periodic imprisonment.
- 29 (3) A term of conditional discharge.
- 30 (4) A term of imprisonment.
- 31 (5) An order directing the offender to clean up and
- 32 repair the damage, if the offender was convicted under

1 paragraph (h) of Section 21-1 of the Criminal Code of
2 1961.

3 (6) A fine.

4 (7) An order directing the offender to make
5 restitution to the victim under Section 5-5-6 of this
6 Code.

7 (8) A sentence of participation in a county impact
8 incarceration program under Section 5-8-1.2 of this Code.

9 Whenever an individual is sentenced for an offense based
10 upon an arrest for a violation of Section 11-501 of the
11 Illinois Vehicle Code, or a similar provision of a local
12 ordinance, and the professional evaluation recommends
13 remedial or rehabilitative treatment or education, neither
14 the treatment nor the education shall be the sole disposition
15 and either or both may be imposed only in conjunction with
16 another disposition. The court shall monitor compliance with
17 any remedial education or treatment recommendations contained
18 in the professional evaluation. Programs conducting alcohol
19 or other drug evaluation or remedial education must be
20 licensed by the Department of Human Services. However, if
21 the individual is not a resident of Illinois, the court may
22 accept an alcohol or other drug evaluation or remedial
23 education program in the state of such individual's
24 residence. Programs providing treatment must be licensed
25 under existing applicable alcoholism and drug treatment
26 licensure standards.

27 In addition to any other fine or penalty required by law,
28 any individual convicted of a violation of Section 11-501 of
29 the Illinois Vehicle Code, Section 5-16 of the Boat
30 Registration and Safety Act, or a similar provision of local
31 ordinance, whose operation of a motor vehicle while in
32 violation of Section 11-501, Section 5-16, or such ordinance
33 proximately caused an incident resulting in an appropriate
34 emergency response, shall be required to make restitution to

1 a public agency for the costs of that emergency response.
2 Such restitution shall not exceed \$500 per public agency for
3 each such emergency response. For the purpose of this
4 paragraph, emergency response shall mean any incident
5 requiring a response by: a police officer as defined under
6 Section 1-162 of the Illinois Vehicle Code; a fireman carried
7 on the rolls of a regularly constituted fire department; and
8 an ambulance as defined under Section 4.05 of the Emergency
9 Medical Services (EMS) Systems Act.

10 Neither a fine nor restitution shall be the sole
11 disposition for a felony and either or both may be imposed
12 only in conjunction with another disposition.

13 (c) (1) When a defendant is found guilty of first degree
14 murder the State may either seek a sentence of
15 imprisonment under Section 5-8-1 of this Code, or where
16 appropriate seek a sentence of death under Section 9-1 of
17 the Criminal Code of 1961.

18 (2) A period of probation, a term of periodic
19 imprisonment or conditional discharge shall not be
20 imposed for the following offenses. The court shall
21 sentence the offender to not less than the minimum term
22 of imprisonment set forth in this Code for the following
23 offenses, and may order a fine or restitution or both in
24 conjunction with such term of imprisonment:

25 (A) First degree murder where the death
26 penalty is not imposed.

27 (B) Attempted first degree murder.

28 (C) A Class X felony.

29 (D) A violation of Section 401.1 or 407 of the
30 Illinois Controlled Substances Act, or a violation
31 of subdivision (c)(1) or (c)(2) of Section 401 of
32 that Act which relates to more than 5 grams of a
33 substance containing heroin or cocaine or an analog
34 thereof.

1 (E) A violation of Section 5.1 or 9 of the
2 Cannabis Control Act.

3 (F) A Class 2 or greater felony if the
4 offender had been convicted of a Class 2 or greater
5 felony within 10 years of the date on which the
6 offender committed the offense for which he or she
7 is being sentenced, except as otherwise provided in
8 Section 40-10 of the Alcoholism and Other Drug Abuse
9 and Dependency Act.

10 (G) Residential burglary, except as otherwise
11 provided in Section 40-10 of the Alcoholism and
12 Other Drug Abuse and Dependency Act.

13 (H) Criminal sexual assault, except as
14 otherwise provided in subsection (e) of this
15 Section.

16 (I) Aggravated battery of a senior citizen.

17 (J) A forcible felony if the offense was
18 related to the activities of an organized gang.

19 Before July 1, 1994, for the purposes of this
20 paragraph, "organized gang" means an association of
21 5 or more persons, with an established hierarchy,
22 that encourages members of the association to
23 perpetrate crimes or provides support to the members
24 of the association who do commit crimes.

25 Beginning July 1, 1994, for the purposes of
26 this paragraph, "organized gang" has the meaning
27 ascribed to it in Section 10 of the Illinois
28 Streetgang Terrorism Omnibus Prevention Act.

29 (K) Vehicular hijacking.

30 (L) A second or subsequent conviction for the
31 offense of hate crime when the underlying offense
32 upon which the hate crime is based is felony
33 aggravated assault or felony mob action.

34 (M) A second or subsequent conviction for the

1 offense of institutional vandalism if the damage to
2 the property exceeds \$300.

3 (N) A Class 3 felony violation of paragraph
4 (1) of subsection (a) of Section 2 of the Firearm
5 Owners Identification Card Act.

6 (O) A violation of Section 12-6.1 of the
7 Criminal Code of 1961.

8 (P) A violation of paragraph (1), (2), (3),
9 (4), (5), or (7) of subsection (a) of Section
10 11-20.1 of the Criminal Code of 1961.

11 (Q) A violation of Section 20-1.2 of the
12 Criminal Code of 1961.

13 (R) A violation of Section 24-3A of the
14 Criminal Code of 1961.

15 (S) A violation of Section 11-501(c-1)(3) of
16 the Illinois Vehicle Code.

17 (3) A minimum term of imprisonment of not less than
18 5 days or 30 days of community service as may be
19 determined by the court shall be imposed for a second
20 violation committed within 5 years of a previous
21 violation of Section 11-501 of the Illinois Vehicle Code
22 or a similar provision of a local ordinance. In the case
23 of a third or subsequent violation committed within 5
24 years of a previous violation of Section 11-501 of the
25 Illinois Vehicle Code or a similar provision of a local
26 ordinance, a minimum term of either 10 days of
27 imprisonment or 60 days of community service shall be
28 imposed.

29 (4) A minimum term of imprisonment of not less than
30 10 consecutive days or 30 days of community service shall
31 be imposed for a violation of paragraph (c) of Section
32 6-303 of the Illinois Vehicle Code.

33 (4.1) A minimum term of 30 consecutive days of
34 imprisonment, 40 days of 24 hour periodic imprisonment or

1 720 hours of community service, as may be determined by
2 the court, shall be imposed for a violation of Section
3 11-501 of the Illinois Vehicle Code during a period in
4 which the defendant's driving privileges are revoked or
5 suspended, where the revocation or suspension was for a
6 violation of Section 11-501 or Section 11-501.1 of that
7 Code.

8 (4.2) Except as provided in paragraph (4.3) of this
9 subsection (c), a minimum of 100 hours of community
10 service shall be imposed for a second violation of
11 Section 6-303 of the Illinois Vehicle Code.

12 (4.3) A minimum term of imprisonment of 30 days or
13 300 hours of community service, as determined by the
14 court, shall be imposed for a second violation of
15 subsection (c) of Section 6-303 of the Illinois Vehicle
16 Code.

17 (4.4) Except as provided in paragraph (4.5) and
18 paragraph (4.6) of this subsection (c), a minimum term of
19 imprisonment of 30 days or 300 hours of community
20 service, as determined by the court, shall be imposed for
21 a third or subsequent violation of Section 6-303 of the
22 Illinois Vehicle Code.

23 (4.5) A minimum term of imprisonment of 30 days
24 shall be imposed for a third violation of subsection (c)
25 of Section 6-303 of the Illinois Vehicle Code.

26 (4.6) A minimum term of imprisonment of 180 days
27 shall be imposed for a fourth or subsequent violation of
28 subsection (c) of Section 6-303 of the Illinois Vehicle
29 Code.

30 (5) The court may sentence an offender convicted of
31 a business offense or a petty offense or a corporation or
32 unincorporated association convicted of any offense to:

33 (A) a period of conditional discharge;

34 (B) a fine;

1 (C) make restitution to the victim under
2 Section 5-5-6 of this Code.

3 (5.1) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), and except as
5 provided in paragraph (5.2) or (5.3), a person convicted
6 of violating subsection (c) of Section 11-907 of the
7 Illinois Vehicle Code shall have his or her driver's
8 license, permit, or privileges suspended for at least 90
9 days but not more than one year, if the violation
10 resulted in damage to the property of another person.

11 (5.2) In addition to any penalties imposed under
12 paragraph (5) of this subsection (c), and except as
13 provided in paragraph (5.3), a person convicted of
14 violating subsection (c) of Section 11-907 of the
15 Illinois Vehicle Code shall have his or her driver's
16 license, permit, or privileges suspended for at least 180
17 days but not more than 2 years, if the violation resulted
18 in injury to another person.

19 (5.3) In addition to any penalties imposed under
20 paragraph (5) of this subsection (c), a person convicted
21 of violating subsection (c) of Section 11-907 of the
22 Illinois Vehicle Code shall have his or her driver's
23 license, permit, or privileges suspended for 2 years, if
24 the violation resulted in the death of another person.

25 (6) In no case shall an offender be eligible for a
26 disposition of probation or conditional discharge for a
27 Class 1 felony committed while he was serving a term of
28 probation or conditional discharge for a felony.

29 (7) When a defendant is adjudged a habitual
30 criminal under Article 33B of the Criminal Code of 1961,
31 the court shall sentence the defendant to a term of
32 natural life imprisonment.

33 (8) When a defendant, over the age of 21 years, is
34 convicted of a Class 1 or Class 2 felony, after having

1 twice been convicted in any state or federal court of an
2 offense that contains the same elements as an offense now
3 classified in Illinois as a Class 2 or greater Class
4 felony and such charges are separately brought and tried
5 and arise out of different series of acts, such defendant
6 shall be sentenced as a Class X offender. This paragraph
7 shall not apply unless (1) the first felony was committed
8 after the effective date of this amendatory Act of 1977;
9 and (2) the second felony was committed after conviction
10 on the first; and (3) the third felony was committed
11 after conviction on the second. A person sentenced as a
12 Class X offender under this paragraph is not eligible to
13 apply for treatment as a condition of probation as
14 provided by Section 40-10 of the Alcoholism and Other
15 Drug Abuse and Dependency Act.

16 (9) A defendant convicted of a second or subsequent
17 offense of ritualized abuse of a child may be sentenced
18 to a term of natural life imprisonment.

19 (10) When a person is convicted of violating
20 Section 11-501 of the Illinois Vehicle Code or a similar
21 provision of a local ordinance, the following penalties
22 apply when his or her blood, breath, or urine was .16 or
23 more based on the definition of blood, breath, or urine
24 units in Section 11-501.2 or that person is convicted of
25 violating Section 11-501 of the Illinois Vehicle Code
26 while transporting a child under the age of 16:

27 (A) For a first violation of subsection (a) of
28 Section 11-501, in addition to any other penalty
29 that may be imposed under subsection (c) of Section
30 11-501: a mandatory minimum of 100 hours of
31 community service and a minimum fine of \$500.

32 (B) For a second violation of subsection (a)
33 of Section 11-501, in addition to any other penalty
34 that may be imposed under subsection (c) of Section

1 11-501 within 10 years: a mandatory minimum of 2
2 days of imprisonment and a minimum fine of \$1,250.

3 (C) For a third violation of subsection (a) of
4 Section 11-501, in addition to any other penalty
5 that may be imposed under subsection (c) of Section
6 11-501 within 20 years: a mandatory minimum of 90
7 days of imprisonment and a minimum fine of \$2,500.

8 (D) For a fourth or subsequent violation of
9 subsection (a) of Section 11-501: ineligibility for
10 a sentence of probation or conditional discharge and
11 a minimum fine of \$2,500.

12 (d) In any case in which a sentence originally imposed
13 is vacated, the case shall be remanded to the trial court.
14 The trial court shall hold a hearing under Section 5-4-1 of
15 the Unified Code of Corrections which may include evidence of
16 the defendant's life, moral character and occupation during
17 the time since the original sentence was passed. The trial
18 court shall then impose sentence upon the defendant. The
19 trial court may impose any sentence which could have been
20 imposed at the original trial subject to Section 5-5-4 of the
21 Unified Code of Corrections. If a sentence is vacated on
22 appeal or on collateral attack due to the failure of the
23 trier of fact at trial to determine beyond a reasonable doubt
24 the existence of a fact (other than a prior conviction)
25 necessary to increase the punishment for the offense beyond
26 the statutory maximum otherwise applicable, either the
27 defendant may be re-sentenced to a term within the range
28 otherwise provided or, if the State files notice of its
29 intention to again seek the extended sentence, the defendant
30 shall be afforded a new trial.

31 (e) In cases where prosecution for criminal sexual
32 assault or aggravated criminal sexual abuse under Section
33 12-13 or 12-16 of the Criminal Code of 1961 results in
34 conviction of a defendant who was a family member of the

1 victim at the time of the commission of the offense, the
2 court shall consider the safety and welfare of the victim and
3 may impose a sentence of probation only where:

4 (1) the court finds (A) or (B) or both are
5 appropriate:

6 (A) the defendant is willing to undergo a
7 court approved counseling program for a minimum
8 duration of 2 years; or

9 (B) the defendant is willing to participate in
10 a court approved plan including but not limited to
11 the defendant's:

12 (i) removal from the household;

13 (ii) restricted contact with the victim;

14 (iii) continued financial support of the
15 family;

16 (iv) restitution for harm done to the
17 victim; and

18 (v) compliance with any other measures
19 that the court may deem appropriate; and

20 (2) the court orders the defendant to pay for the
21 victim's counseling services, to the extent that the
22 court finds, after considering the defendant's income and
23 assets, that the defendant is financially capable of
24 paying for such services, if the victim was under 18
25 years of age at the time the offense was committed and
26 requires counseling as a result of the offense.

27 Probation may be revoked or modified pursuant to Section
28 5-6-4; except where the court determines at the hearing that
29 the defendant violated a condition of his or her probation
30 restricting contact with the victim or other family members
31 or commits another offense with the victim or other family
32 members, the court shall revoke the defendant's probation and
33 impose a term of imprisonment.

34 For the purposes of this Section, "family member" and

1 "victim" shall have the meanings ascribed to them in Section
2 12-12 of the Criminal Code of 1961.

3 (f) This Article shall not deprive a court in other
4 proceedings to order a forfeiture of property, to suspend or
5 cancel a license, to remove a person from office, or to
6 impose any other civil penalty.

7 (g) Whenever a defendant is convicted of an offense
8 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
9 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
10 12-15 or 12-16 of the Criminal Code of 1961, the defendant
11 shall undergo medical testing to determine whether the
12 defendant has any sexually transmissible disease, including a
13 test for infection with human immunodeficiency virus (HIV) or
14 any other identified causative agent of acquired
15 immunodeficiency syndrome (AIDS). Any such medical test
16 shall be performed only by appropriately licensed medical
17 practitioners and may include an analysis of any bodily
18 fluids as well as an examination of the defendant's person.
19 Except as otherwise provided by law, the results of such test
20 shall be kept strictly confidential by all medical personnel
21 involved in the testing and must be personally delivered in a
22 sealed envelope to the judge of the court in which the
23 conviction was entered for the judge's inspection in camera.
24 Acting in accordance with the best interests of the victim
25 and the public, the judge shall have the discretion to
26 determine to whom, if anyone, the results of the testing may
27 be revealed. The court shall notify the defendant of the test
28 results. The court shall also notify the victim if requested
29 by the victim, and if the victim is under the age of 15 and
30 if requested by the victim's parents or legal guardian, the
31 court shall notify the victim's parents or legal guardian of
32 the test results. The court shall provide information on the
33 availability of HIV testing and counseling at Department of
34 Public Health facilities to all parties to whom the results

1 of the testing are revealed and shall direct the State's
2 Attorney to provide the information to the victim when
3 possible. A State's Attorney may petition the court to obtain
4 the results of any HIV test administered under this Section,
5 and the court shall grant the disclosure if the State's
6 Attorney shows it is relevant in order to prosecute a charge
7 of criminal transmission of HIV under Section 12-16.2 of the
8 Criminal Code of 1961 against the defendant. The court shall
9 order that the cost of any such test shall be paid by the
10 county and may be taxed as costs against the convicted
11 defendant.

12 (g-5) When an inmate is tested for an airborne
13 communicable disease, as determined by the Illinois
14 Department of Public Health including but not limited to
15 tuberculosis, the results of the test shall be personally
16 delivered by the warden or his or her designee in a sealed
17 envelope to the judge of the court in which the inmate must
18 appear for the judge's inspection in camera if requested by
19 the judge. Acting in accordance with the best interests of
20 those in the courtroom, the judge shall have the discretion
21 to determine what if any precautions need to be taken to
22 prevent transmission of the disease in the courtroom.

23 (h) Whenever a defendant is convicted of an offense
24 under Section 1 or 2 of the Hypodermic Syringes and Needles
25 Act, the defendant shall undergo medical testing to determine
26 whether the defendant has been exposed to human
27 immunodeficiency virus (HIV) or any other identified
28 causative agent of acquired immunodeficiency syndrome (AIDS).
29 Except as otherwise provided by law, the results of such test
30 shall be kept strictly confidential by all medical personnel
31 involved in the testing and must be personally delivered in a
32 sealed envelope to the judge of the court in which the
33 conviction was entered for the judge's inspection in camera.
34 Acting in accordance with the best interests of the public,

1 the judge shall have the discretion to determine to whom, if
2 anyone, the results of the testing may be revealed. The court
3 shall notify the defendant of a positive test showing an
4 infection with the human immunodeficiency virus (HIV). The
5 court shall provide information on the availability of HIV
6 testing and counseling at Department of Public Health
7 facilities to all parties to whom the results of the testing
8 are revealed and shall direct the State's Attorney to provide
9 the information to the victim when possible. A State's
10 Attorney may petition the court to obtain the results of any
11 HIV test administered under this Section, and the court
12 shall grant the disclosure if the State's Attorney shows it
13 is relevant in order to prosecute a charge of criminal
14 transmission of HIV under Section 12-16.2 of the Criminal
15 Code of 1961 against the defendant. The court shall order
16 that the cost of any such test shall be paid by the county
17 and may be taxed as costs against the convicted defendant.

18 (i) All fines and penalties imposed under this Section
19 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
20 Vehicle Code, or a similar provision of a local ordinance,
21 and any violation of the Child Passenger Protection Act, or a
22 similar provision of a local ordinance, shall be collected
23 and disbursed by the circuit clerk as provided under Section
24 27.5 of the Clerks of Courts Act.

25 (j) In cases when prosecution for any violation of
26 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
27 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
28 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
29 12-16 of the Criminal Code of 1961, any violation of the
30 Illinois Controlled Substances Act, or any violation of the
31 Cannabis Control Act results in conviction, a disposition of
32 court supervision, or an order of probation granted under
33 Section 10 of the Cannabis Control Act or Section 410 of the
34 Illinois Controlled Substance Act of a defendant, the court

1 shall determine whether the defendant is employed by a
2 facility or center as defined under the Child Care Act of
3 1969, a public or private elementary or secondary school, or
4 otherwise works with children under 18 years of age on a
5 daily basis. When a defendant is so employed, the court
6 shall order the Clerk of the Court to send a copy of the
7 judgment of conviction or order of supervision or probation
8 to the defendant's employer by certified mail. If the
9 employer of the defendant is a school, the Clerk of the Court
10 shall direct the mailing of a copy of the judgment of
11 conviction or order of supervision or probation to the
12 appropriate regional superintendent of schools. The regional
13 superintendent of schools shall notify the State Board of
14 Education of any notification under this subsection.

15 (j-5) A defendant at least 17 years of age who is
16 convicted of a felony and who has not been previously
17 convicted of a misdemeanor or felony and who is sentenced to
18 a term of imprisonment in the Illinois Department of
19 Corrections shall as a condition of his or her sentence be
20 required by the court to attend educational courses designed
21 to prepare the defendant for a high school diploma and to
22 work toward a high school diploma or to work toward passing
23 the high school level Test of General Educational Development
24 (GED) or to work toward completing a vocational training
25 program offered by the Department of Corrections. If a
26 defendant fails to complete the educational training required
27 by his or her sentence during the term of incarceration, the
28 Prisoner Review Board shall, as a condition of mandatory
29 supervised release, require the defendant, at his or her own
30 expense, to pursue a course of study toward a high school
31 diploma or passage of the GED test. The Prisoner Review
32 Board shall revoke the mandatory supervised release of a
33 defendant who wilfully fails to comply with this subsection
34 (j-5) upon his or her release from confinement in a penal

1 institution while serving a mandatory supervised release
2 term; however, the inability of the defendant after making a
3 good faith effort to obtain financial aid or pay for the
4 educational training shall not be deemed a wilful failure to
5 comply. The Prisoner Review Board shall recommit the
6 defendant whose mandatory supervised release term has been
7 revoked under this subsection (j-5) as provided in Section
8 3-3-9. This subsection (j-5) does not apply to a defendant
9 who has a high school diploma or has successfully passed the
10 GED test. This subsection (j-5) does not apply to a defendant
11 who is determined by the court to be developmentally disabled
12 or otherwise mentally incapable of completing the educational
13 or vocational program.

14 (k) A court may not impose a sentence or disposition for
15 a felony or misdemeanor that requires the defendant to be
16 implanted or injected with or to use any form of birth
17 control.

18 (l) (A) Except as provided in paragraph (C) of
19 subsection (l), whenever a defendant, who is an alien as
20 defined by the Immigration and Nationality Act, is
21 convicted of any felony or misdemeanor offense, the court
22 after sentencing the defendant may, upon motion of the
23 State's Attorney, hold sentence in abeyance and remand
24 the defendant to the custody of the Attorney General of
25 the United States or his or her designated agent to be
26 deported when:

27 (1) a final order of deportation has been
28 issued against the defendant pursuant to proceedings
29 under the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not
31 deprecate the seriousness of the defendant's conduct
32 and would not be inconsistent with the ends of
33 justice.

34 Otherwise, the defendant shall be sentenced as

1 provided in this Chapter V.

2 (B) If the defendant has already been sentenced for
3 a felony or misdemeanor offense, or has been placed on
4 probation under Section 10 of the Cannabis Control Act or
5 Section 410 of the Illinois Controlled Substances Act,
6 the court may, upon motion of the State's Attorney to
7 suspend the sentence imposed, commit the defendant to the
8 custody of the Attorney General of the United States or
9 his or her designated agent when:

10 (1) a final order of deportation has been
11 issued against the defendant pursuant to proceedings
12 under the Immigration and Nationality Act, and

13 (2) the deportation of the defendant would not
14 deprecate the seriousness of the defendant's conduct
15 and would not be inconsistent with the ends of
16 justice.

17 (C) This subsection (1) does not apply to offenders
18 who are subject to the provisions of paragraph (2) of
19 subsection (a) of Section 3-6-3.

20 (D) Upon motion of the State's Attorney, if a
21 defendant sentenced under this Section returns to the
22 jurisdiction of the United States, the defendant shall be
23 recommitted to the custody of the county from which he or
24 she was sentenced. Thereafter, the defendant shall be
25 brought before the sentencing court, which may impose any
26 sentence that was available under Section 5-5-3 at the
27 time of initial sentencing. In addition, the defendant
28 shall not be eligible for additional good conduct credit
29 for meritorious service as provided under Section 3-6-6.

30 (m) A person convicted of criminal defacement of
31 property under Section 21-1.3 of the Criminal Code of 1961,
32 in which the property damage exceeds \$300 and the property
33 damaged is a school building, shall be ordered to perform
34 community service that may include cleanup, removal, or

1 painting over the defacement.

2 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
3 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
4 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
5 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
6 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
7 7-19-02.)